

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

RAYMOND NEIL,

Complainant,

and

**TRIBCO CONSTRUCTION
SERVICES LLC,**

Respondent.

Charge No.: 2007CF2616

EEOC No.: 21BA71320

ALS No.: 08-0286

Judge Gertrude L. McCarthy

RECOMMENDED ORDER AND DECISION

On June 23, 2008, the Illinois Department of Human Rights (Department) filed a *Complaint of Civil Rights Violation* on behalf of Complainant. The complaint alleged discrimination based on race in violation of the Illinois Human Rights Act (Act).

On May 29, 2009, Respondent filed its *Motion to Dismiss for Want of Prosecution*.

The Department is an additional statutory agency that has issued state actions in this matter. The Department is therefore named as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. On June 23, 2008, the Department filed a *Complaint of Civil Rights Violation* on behalf of Complainant alleging discrimination based on race in violation of the Act.
2. On June 30, 2008, the Commission sent a *Notice of Public Hearing* to Complainant at the address of record, 9426 South Charles, Chicago, IL 60629. That notice scheduled a hearing for September 10, 2008. The Commission did not receive a return receipt from Complainant.

3. On September 10, 2008, Complainant failed to appear for the scheduled hearing, which was continued to November 12, 2008.

4. On November 12, 2008, Complainant appeared through counsel.

5. On December 12, 2008, Respondent served interrogatories and document requests on Complainant to which Complainant failed to respond.

6. On February 11, 2009, Complainant failed to appear for a scheduled status hearing.

7. On February 18, 2009, Respondent filed its *Motion to Compel*.

8. On February 26, 2009, Complainant appeared at the hearing on Respondent's *Motion to Compel*, but Complainant's counsel failed to appear. The hearing was continued to March 26, 2009.

9. On March 23, 2009, Complainant's counsel filed a *Motion to Withdraw*.

10. On March 26, 2009, the Commission granted Complainant's attorney's *Motion to Withdraw*. Complainant was granted 21 days to obtain new counsel or file an appearance on his own behalf. Complainant failed to obtain new counsel or file an appearance.

11. On May 13, 2009, Complainant failed to appear for a scheduled status hearing.

12. On May 29, 2009, Respondent filed its *Motion to Dismiss for Want of Prosecution* to which Complainant failed to respond.

13. On June 10, 2009, Complainant failed to appear for the scheduled hearing on Respondent's motion to dismiss.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute his case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute his case, this matter should be dismissed.

DISCUSSION

On June 23, 2008, the Department filed a *Complaint of Civil Rights Violation* alleging discrimination based on race in violation of the Act. A notice of public hearing was scheduled for September 10, 2008.

Complainant failed to appear for the hearing date of September 10, 2008, which was continued to November 12, 2008.

Complainant appeared through his attorney at the hearing on November 12, 2008.

On December 12, 2008, Respondent filed its discovery requests to which Complainant failed to respond.

Complainant failed to appear for a status date of February 11, 2009.

On February 18, 2009, Respondent filed its *Motion to Compel*.

On March 26, 2009, the Commission granted Complainant's counsel's *Motion to Withdraw* with no objections from Complainant. Complainant was granted 21 days to obtain new counsel or file an appearance on his own behalf. Complainant failed to obtain new counsel or file an appearance.

Complainant failed to appear for a status date of May 13, 2009.

Respondent filed a *Motion to Dismiss for Want of Prosecution* on May 29, 2009. A hearing was scheduled for June 10, 2009. Complainant failed to appear at the hearing on Respondent's motion to dismiss.

Respondent filed *Certificates of Service*. Those certificates showed notice to Complainant of the orders of September 10, 2008, February 11, 2009, February 26, 2009, May 13, 2009, and June 10, 2009.

The Complainant has not filed a response to the pending motion.

Complainant has done nothing to ensure that his complaint is heard.

Complainant's actions, therefore, have unreasonably delayed the proceedings in this matter.

It is a fundamental principle governing practice before the Commission that it is the singular responsibility of complainants to diligently pursue the disposition of their cases once they are docketed with the Commission. See *Johnson and Valley Green Management Co.*, IHRC, 11469, July 25, 2002.

The Commission routinely dismisses abandoned claims. See *e.g. Leonard and Solid Matter, Inc.*, IHRC, 4942, August 25, 1992. The Commission has dismissed cases where Complainant has failed to respond to discovery. See *Guszek and Addeco*, IHRC, 06-262, July 7, 2008. Additionally, the Commission has dismissed cases where Complainant has failed to appear before the Commission on dates scheduled for hearing or status. See, *e.g. Stewart and SBC Midwest*, IHRC, 04-227, March 22, 2006, and *Jackson and Chicago Firefighters Union Local No. 2*, IHRC, 8193, September 29, 1997. In light of those precedents, this case should be dismissed.

RECOMMENDATION

Based upon the foregoing, it is recommended that the complaint and the underlying charge in this matter be dismissed in their entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

GERTRUDE L. MCCARTHY
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: September 23, 2010